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AUTHOR Signorelli, Anthony
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ABSTRACT

At Union County College, in New Jersey, faculty collective bargaining was established in 1975, in response to a sense among faculty that they were no longer adequately involved in decision making at the college. While the first few negotiations went smoothly, in 1979 and 1980 faculty went on strike over the administration's decision to increase class sizes. Although since then the relationship between faculty and administration appears cordial on the surface, there has been some deterioration. Recently, the administration has begun applying its own unique interpretation to contract provisions that had previously been ignored and has been more willing to settle disputes through outside arbitrators, rather than through informal negotiations. The collective bargaining process seems to have intensified the division between faculty and administration, affecting the climate of shared governance. Although some researchers have claimed that the process actually helps achieve the goal of shared governance, collective bargaining by its very nature and its roots in the industrial world creates antagonism and results in written, stated duties and limitations for both parties. Although faculty focus can be narrowed by unions and agreements, ultimately what is important is that faculty and administrators share a willingness to cooperate and compromise in a productive rather than an adversarial manner. (BCY)

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Has Collective Bargaining Damaged Shared Governance?

Anthony Signorelli
Union County College
Cranford, N.J.

For
Princeton University
Mid-Career Fellowship Program
May, 1997

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Issues of Education at Community Colleges: Essays by Fellows
in the Mid-Career Fellowship Program at Princeton University

I have been involved in collective bargaining at Union County College since its inception in 1975. With the exception of approximately two or three contracts, I have participated in negotiating all the faculty contracts at the college. In fact, while I was acting Dean I even negotiated a contract for the administration.

I have found the process of negotiations to be at different times exciting, frustrating, fun, boring and exhilarating. While I for the most part believe in the necessity of the process, I do also occasionally have some reservations concerning its appropriateness in the academic setting and some doubts concerning whether or not it actually achieves the goals that faculty desire. Perhaps a brief review of the history of collective bargaining at Union County College and what I perceive as its influence on the evolution of relations between faculty and administration might help explain my feelings.

Beginning in the 1960s Union College, although a private institution began to function as the county's community college. This was accomplished by the establishment of a coordinating agency established by the county that funneled funds from the state and county to the college. This, of course, required that the college adhere to some of the regulations governing community colleges, such as open enrollment and so forth. During this time no official collective bargaining agent existed at the college. The faculty was governed by an elected Faculty Executive Committee, composed of approximately twelve faculty members, that had the task of communicating with the administration concerning academic and non-academic faculty and college wide matters and overseeing all faculty committees. One such committee was the Welfare Committee. The primary task of this

committee was to informally negotiate with the President and the Board of Trustees. The policies, rules, obligations and rights of the faculty were spelled out in the Faculty Handbook that was drafted by the Faculty Executive Committee together with the Board of Trustees. A chapter of the American Association of University Professors existed at the college at this time, but it did not participate in bargaining.

In the early 1970s feelings of discontent among some of the faculty began to emerge, or at least began to be expressed openly. Most of the dissatisfaction seemed to be related to a sense that the faculty was no longer adequately involved in decision making at the college. This discontentment came to the fore and gained momentum when a Dean, who was popular with most of the faculty, was dismissed. At this point, the faculty formally began to consider unionizing although there was a good deal of apprehension among the faculty. Eventually, the AAUP was elected as the bargaining agent for the faculty and the first formal negotiations began in the summer of 1975. Although both the faculty and the administration retained attorneys and the process was not completed until the early morning hours on the day classes began, the contract that was negotiated essentially incorporated the material that already existed in the Faculty Handbook.

The following negotiation went fairly smoothly with little other than salary being disputed. However, the negotiations that took place in 1979, augured what was to come. During this negotiation the administration demanded increases in class size. This demand angered most of the faculty and resulted in a three day strike. In spite of this, an increase in class size was finally negotiated. This resulted in the faculty sensing that they had lost a battle and set the stage for another strike the following year. This strike lasted

approximately thirteen days and ended after the administration agreed to a minimal reduction in class size.

Despite the acrimony that was engendered by this negotiation, it did not spill over into the general relations between the faculty and administration. Indeed, a week after the strike ended and classes commenced, the president of the college invited me out to lunch to discuss ways that communication between the faculty and administration could be improved and a more cooperative atmosphere could be created.

This did lead to an improved relationship and the next two negotiations were relatively easy, with little more than salary increases being in contention. In 1984, the Department of Higher Education arranged a merger between Union County Technical Institute and the college, and we became a public entity, renamed Union County College. The merger required the merging of two distinct faculties and curricula, modification of the Faculty By-Laws and an election to determine which of two different bargaining agents would now represent the merged faculty.

By the time the next negotiations started, the president of the college who had been involved in the merger had died and was replaced by an individual from outside the state. This negotiation was much more involved for several reasons. A number of modifications to the contract were made in an attempt to satisfy both of the newly merged faculties. The new president took office after negotiations were already under way. Having no in depth knowledge of the history of the college and the relationship that had existed between faculty and administration, he attempted to direct negotiations in a different manner. The result was that a portion of the contract was settled, with a

stipulation that a number of items of contention would be negotiated at a later date . This resulted in a continuing negotiation over several individual items for over a year, producing a prolonged sense of uneasiness in the faculty.

After this president resigned, our current president took office. As with the previous president, he took office while negotiations over a contract were already under way. Due to a misunderstanding between an arbitrator and the faculty and administration, a one day strike occurred. It was quickly settled the following day and classes got underway. The following two negotiations have been amicable and settlements have been agreed to fairly early in the process. Although on the surface the relationship between faculty and administration appears cordial, there has been some deterioration. For the last several years, the administration has shown a willingness to enforce or apply its own unique interpretation to provisions of the contract that were until then ignored or honored only loosely. This has led to an fairly dramatic increase in faculty grievances. The administration has also demonstrated a reluctance to settle such grievances informally, rather they are extremely willing to have these issues decided by outside arbitrators.

Almost every aspect of governance that they wish to revoke from the faculty is explained as necessitated by state regulations or a changing educational climate. For example, one grievance pressed by the administration concerned the non-reappointment of a full-time faculty member. The reappointment would have also granted tenure to this individual. The evaluation by faculty committees were mixed. At the departmental level it was recommended that he receive reappointment, but not tenure. A college wide committee recommended that he receive both reappointment and tenure. The

administration chose not to grant reappointment, although the rationale they used was not in accord with the criteria stated in the contract. The union therefore filed a grievance on the individual's behalf. Although the union's position was upheld by an arbitrator, the administration appealed this decision to the state court, where the arbitrator's decision was overturned. From the very initiation of the grievance it was apparent that the union and administration were concerned with different issues. The union, or more precisely, the faculty considered the faculty member a worthy teacher and wished to retain him. The administration was more concerned with the issue of reappointment and tenure and perceived this as a precedent setting grievance. Although the criteria for reappointment and tenure as stated in the contract do not differ, the faculty had never questioned the administrations request for separate evaluations and recommendations. It was not likely that the reappointment of this faculty member would have been cited in future cases as precedent. The faculty was concerned on with this individual. The administration saw the issue from a much broader perspective and felt the necessity to have its prerogatives confirmed by the courts. Conversely, the union, by virtue of its legal obligation, must support complaints and grievances of faculty members, even though they at times have seemingly little merit.

In addition, there is a tendency to put pressure on the union to negotiate individual contractual items outside the collective bargaining arena. The frequently heard justification for these activities is the professed administration's need to gain greater flexibility in hiring, curricula, and conditions of work so that the college can keep abreast of the rapidly changing educational environment. Again this can have both positive and

negative aspects. Modifying contractual agreements due to problems that arise rather than waiting for the expiration of a contract can be profitable to both the faculty and administration. This has occurred several times at Union County College. An agreement concerning the amount of overload that could be requested in any semester was modified when it became apparent that a few faculty members were abusing the provisions that had been negotiated in the previous contract. An agreement on departmental coordinators was also drafted in an interim period. But the productive nature of this activity depends on the willingness to cooperate by both the union and administration. When there is a demand to negotiate and threat is employed, the process is, in the long run, endangered. This also occurred. The administration demanded the right to hire temporary, or non-tenure track full time faculty and wanted to negotiate this with the union. The union executive committee was told that if it refused to negotiate on this item, the Board of Trustees would develop a policy, since this was a management prerogative. The use of threat as in this case will, of course, reduce the willingness of the union to negotiate with the administration on individual matters.

Perhaps much of this would have resulted even if no union existed. Conceivably, it may have occurred with greater rapidity. Nonetheless, I have a sense, as do others that the collective bargaining process intensifies the division into "us" and "them" between faculty and administration.

In their 1967 report a task force sponsored by the American Association of Higher Education proclaimed a commitment to the concept of shared authority, suggesting there was "a community of interest within which faculty members and

administrators cooperate in governing colleges.” This statement was endorsed and disseminated by the American Association of University Professors. The statement was, in fact, accepted by many administrators at various colleges. Both faculty and administration appear to have seen merit in such a stance. As Birnbaum (1980) suggested faculty and administrators often have the same background and training and thus often share similar values.

Wollett (1973) states that professors frequently seek the same degree of status and self government as do other professionals such as lawyers and doctors. Therefore, they often seek to have a significant influence on college policy concerning admissions, grading, student conduct, academic freedom, appointment of new faculty, department chairs and deans and presidents.

Since most college presidents were once members of a faculty, one would presume that they would understand and support such faculty aspirations. Further, one would expect that they would seek a harmonious relationship with the faculty since, ideally, this would result in a more perfect academic institution. Yet, one discerns that this is not the case, not just at community colleges but four year institutions as well. One can examine the relationship between the presidents and faculty of Boston College and Rutgers, as just two examples of quite acrimonious relationships. It might be argued that to some extent the relationship is influenced by the personalities of the individuals involved. In the two cases cited above, this appears to be one of the factors. I also have observed, having negotiated contracts with three different presidents, that each had differing approaches to bargaining and their personalities seemed very much to influence what they deemed to be

important issues, what issues became major problems, how easily or amicably they were resolved and how they perceived the bargaining process and its outcome in terms of their ego. However, Birnbaum notes that both faculty and administrators are affected by their roles, particularly during the dynamic process of bargaining. He cautions against attributing problems in the process or outcomes on the personalities of the individuals involved.

This may be true and the real problem may be the collective bargaining process itself. Graham & Walters (1973) comment that the collective bargaining process adopted by institutions of higher education had its origins in the industrial world and was incorporated into the educational milieu without modification. In the industrial realm, the bargaining relationship is truly one of conflict between employer and employee, each having distinct and differing interests. As Graham & Walters indicate "...workers have no role in deciding what work will be done, by what methods or by whom, or what should be the policies or goals of the organization." These are the concerns of management. Workers are primarily concerned with economic issues, salaries and benefits and working conditions, not with decision making. Ironically, unionization came to higher education precisely because faculty sensed that such a division was being established in their domain. Angell (1973) points out that collective bargaining in higher education began earliest in public two year colleges. He suggests that this was due to the fact that faculty at these institutions perceived themselves as college level instructors, while many administrators sought to impose an authoritarian, elementary or high school level of management upon them.

But Wollett states that the system of self-government does not adapt easily to collective bargaining: "Managerial decisions, regardless of who makes them, are likely to become the source of complaints and the prime generator of grievances." He also notes that the scope of bargaining is the issue that creates the greatest degree of emotion in educational bargaining. "...academic administrations attempt to utilize collective bargaining to narrow the scope of faculty authority and meaningful participation in decision making." On the other hand, he warns if the faculty truly wants a voice in decision making they must be willing to take on the obligation of self-regulation, and be committed to peer evaluation and discipline. Birnbaum suggests that faculty are often confused about the true consequence of bargaining. An example of this, he indicates is "...reflected in faculty desires both to unionize and to have representation on the board of trustees. These orientations toward governance are basically incompatible with one another."

There are those who insist that collective bargaining does achieve the goal of shared governance. Two articles published on the AAUP Internet website in 1996 take this position. Finner notes that the AAUP has for a number of years held the view that "...collective bargaining is an appropriate vehicle for securing faculty governance and thereby protecting academic freedom and tenure." He goes on to state that those who believe collective bargaining is incompatible with professionalism are absolutely wrong. An analysis of contracts negotiated at various institutions supports this, he argues. Most contracts incorporate AAUP standards concerning academic freedom and tenure and reference AAUP documents concerning governance. He adds, that the AAUP national

office, has had far fewer complaints about issues of academic freedom and tenure at those institutions that negotiated an AAUP contract. He suggests this is due to the fact that “a collective bargaining agreement both protects faculty and provides a grievance mechanism for adjudication of complaints.”

In the second article, Stoner declares that faculty are under attack from a number of sources, political assaults on tenure, wide-spread anti-intellectual sentiments, corporate administrative mentality and student consumerism. The only way to protect academic freedom, he states is through collective bargaining.

Not all the difficulties that exist in the relationships between faculty and administration can be blamed on the collective bargaining process. Certainly, many existed prior to its appearance and many have other sources of origin. Federal and state laws, political and popular pressure to reshape the education system, dependence on public funding all place pressures on educational institutions and tend to force administrators to attend to different pressures and a different audience than the faculty. These factors have also tended to drive a wedge between the faculty and administration. In other words, there may no longer be that commonality of interests that presumably once existed between faculty and administration.

Graham & Walters in their article state that with some modification the collective bargaining process can be adjusted to satisfy the educational model of shared governance. I am not certain this is true. The process by its very nature creates antagonism and results in written, stated duties and limitations for both parties. The written word of a contract can at times become the playground of knaves. In addition there are various factors and

factions pressuring educational institutions which tend to exacerbate the differences in roles played by the administration and faculty.

As noted above, articles by Finner and Stoner both suggest that union contracts have protected academic freedom and tenure. Negotiated contracts may have also provided faculty with a wage that is greater than it would have received without a union. And perhaps maintained adequate working conditions.

But a union and the negotiated agreements it achieves is no panacea. Contracts can limit as well as protect freedom and variation. They can narrow the focus of faculty to a concern for salary and working conditions. A focus unfortunately that received additional approval from the New Jersey Supreme Court some years ago. This can be damaging, since administration and outside political and special interest groups can then portray the faculty as not interested in professionalism or mission, but only with money.

On the other hand, without the protection of a union faculty may have no input into curriculum, college policy and other decisions central to the academic mission of a college.

Ultimately, it is probable that it is not whether there is a union or not, but the environment and personalities of the individuals who are the administration and faculty of a college and their willingness to cooperate, compromise and work out solutions to their problems in a productive rather than an adversarial manner.

Perhaps the ideal of shared governance that some see damaged by the bargaining process, in fact never existed. Possibly, it is only a reconstruction of a imagined past. Or if it once truly did exist, it is not clear that collective bargaining is a vehicle that can

guarantee or even facilitate its return. Maybe Humpty Dumpty has fallen, shattered and will never be made whole again.

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